

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

TODD DAVIDSON,)	
)	
Plaintiff,)	
)	1:03-CV-1882-SEB-JPG
vs.)	
)	
CITIZENS GAS & COKE UTILITY,)	
)	
Defendant.)	

ENTRY

This cause is before the undersigned Magistrate Judge on the Plaintiffs' Emergency Motion to Reconsider Protective Order, on Defendant's Objection thereto, and on Plaintiffs' Reply. This Motion was referred to this Magistrate Judge by Order of Judge Sarah Evans Barker on January 11, 2005. A telephone hearing was conducted with counsel on January 11, 2005 and counsel's arguments heard and considered. The Court, having considered the foregoing and being duly advised, does now submit its ruling.

Since this motion was argued to the Court intervening events have rendered the Motion largely moot. The Court has ordered the production of the documents sought by subpoena. Leave has been granted to depose Dr. Guay after the

deadline for completion of discovery. That deposition is tentatively scheduled for October 10, 11 or 17th.

The question of sanctions is the only matter remaining to be decided. This Magistrate Judge abhors sanctions, but is bound to impose them in an appropriate case under the Rules. This is such a case.

Plaintiffs sought pre-emptive self-help relief at a time when motions seeking the same relief were pending before the Court. The undersigned regrets the delay in his ruling. That does not justify the scheduling of this deposition. Moreover, the scheduling was on inadequate notice for an expert's deposition and counsel had been advised of Defendant's objection. Defendant's Motion for Protective Order was justified as was the Court's Entry granting it on an expedited basis. The time counsel spent preparing the Motion is compensable by Plaintiffs' counsel. The time of three hours is appropriate. The hourly rate of \$320 is asserted to be counsel's regular hourly rate. Parenthetically, it should be observed that this is not necessarily the last time the Court may be called upon to approve an hourly rate for one or the other of counsel in this case.

Accordingly, the Court denies Plaintiffs' Emergency Motion to Reconsider and sanctions Plaintiffs' counsel in the amount of \$960.00.

DATED this 15th day of SEPTEMBER, 2005.



JOHN P. GODICH, MAGISTRATE JUDGE
United States District Court
Southern District of Indiana

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